

110-1

Prior to January 26, 1996, the following rules governed GAIN state hearings and formal grievances: When a GAIN participant believes that any program requirement or assignment is in violation of the contract or is inconsistent with the program, the participant has the right to request a state hearing or to file a formal grievance based on (a) the procedures established in §5302 of the Unemployment Insurance (UI) Code or (b) the procedures established by the county Board of Supervisors. (§42-787)

110-1A

When a GAIN participant believes that any program requirement or assignment is in violation of, or inconsistent with, state law and regulations governing the Welfare-to-Work (formerly GAIN) program, the county shall inform the participant of the right either to request a state hearing, or if appropriate, to file a formal grievance. (§42-787, renumbered §42-721.51, effective July 1, 1998)

110-1B

The sole issue for resolution through a formal grievance shall be whether a GAIN program requirement or assignment is in violation of the contract or inconsistent with the program. The formal grievance cannot be used to appeal the outcome of a state hearing, the requirement to sign a welfare-to-work contract, the results of an assessment made according to §42-711.55 (formerly §42-773.1), or by a noncomplying individual who has already failed to successfully conciliate in accord with §42-781. (§§42-787.22 through .24, renumbered and revised to §§42-721.512(b) - (d))

The GAIN participant may request a state hearing to appeal the outcome of a formal grievance. (§42-787.15, renumbered to §42-721.511(e), effective July 1, 1998)

110-1C

Aid, with the exception of welfare-to-work (formerly GAIN) supportive services, will continue if the individual appeals through the state hearing process within the period of timely notification. (§§42-721.441 and §42-787.13, renumbered and revised to §42-721.511(e), effective July 1, 1998)

110-2

Applicants/recipients shall receive written information about GAIN at the time of application or at their first redetermination after implementation of GAIN regarding:

1. A description of the program.
2. The availability of job training, education, and supportive services, including the types and locations of child care services and assistance available to select and obtain such services, and TCC benefits.
3. The individual's rights and responsibilities.
4. The consequences of failure or refusal to participate in GAIN.
5. The grounds for exemption from participation in GAIN. 6. The obligations of the county in providing GAIN services.

(§40-107.16)

111-1

Prior to July 1, 1998, state regulations provided that: The county responsibilities in the GAIN registrant appraisal process are set forth in §42-761.3. These include determining if the registrant should be deferred from participation in GAIN, if this has not been determined prior to appraisal (Subsection .33); advising the registrants of their rights to appeal, conciliate and grieve (Subsection .35); determining which component the nondeferred registrant should be assigned to as part of the basic contract (Subsection .36); and entering into a basic contract with nondeferred registrants (Subsection .39). (§42-761 was repealed in its entirety, effective July 1, 1998)

111-2

Automatic registration under GAIN was governed by the following regulations prior to July 1, 1998: Prior to January 26, 1996, state regulations provided that: Unless exempt as specified in §§42-788 through 42-799, the following individuals are automatically registered for GAIN: individuals specified in §42-625.1; and exempt individuals who volunteer to participate. (§42-760.1, modified January 26, 1996, and repealed effective July 1, 1998)

111-2A

Prior to July 1, 1998, state regulations provided that AFDC applicants and recipients are automatically registered for GAIN if they are not exempt, as specified in §§42-788 through 42-799, or if they are exempt but volunteer to participate in GAIN. (§42-760.1, repealed effective July 1, 1998)

111-3

Prior to July 1, 1998, the following state regulations were in effect:

Target population means a group composed of all GAIN-eligible individuals who are:

(a) Applicants for AFDC who have received AFDC (including those under the Refugee Demonstration Project (RDP) for at least 36 of the last 60 months immediately preceding the most recent month for which application has been made.

(b) Recipients of AFDC who have received AFDC (including those under RDP) for at least 36 of the most recent 60 months.

(c) Custodial parents under the age of 24 who:

(1) Had little or no work experience in the preceding year, which means that during the preceding 12 months they had no more than a three-month continuous period of full-time employment compensated at least at the California minimum wage level: or

(2) Have not completed a high school education and are not enrolled in a high school or in a high school equivalency course of instruction.

(d) Members of a family in which the youngest child is within two years of becoming ineligible for AFDC due to age.

(§42-720.635, renumbered to §42-720.634 effective January 26, 1996; §42-720 repealed in its entirety, effective July 1, 1998)

111-4

Prior to January 26, 1996, state regulations provided that: If funds are sufficient to serve all existing participants, but not sufficient to serve all potential GAIN participants, County Welfare Departments (CWDs) shall bring new individuals into GAIN according to the following list beginning with the highest priority:

- (a) Members of the target population who are required to register for GAIN and who volunteer to participate in GAIN.
- (b) Members of the target population who are exempt from the requirement to register for GAIN and who volunteer to participate in GAIN.
- (c) AFDC applicants and recipients who are required to register for GAIN and who are members of the target population and who do not volunteer to participate in GAIN.
- (d) Recipients of AFDC who are not members of the target population.
- (e) Applicants for AFDC who are not members of the target population.

(§42-720.632, modified and replaced January 26, 1996)

111-4A

Prior to July 1, 1998, state regulations provided that: If resources are insufficient to serve all GAIN registrants, the county shall give priority to certain participants and temporarily exclude other GAIN participants. The method used shall give highest priority to existing GAIN participants, including teen parents who have participated in Cal-Learn, and those individuals between activities or deferred in accord with §§42-761.3 or .4. (§42-720.632; §42-720, repealed in its entirety, effective July 1, 1998)

112-1

Prior to July 1, 1998, the following regulations were in effect:

All of the following GAIN registrants shall have good cause for not participating and shall be deferred from mandatory participation until the county determines that the situation precluding participation no longer exists:

- (a) An individual who, at the time of appraisal, is enrolled on a full-time basis in a program to earn a degree, license, or certificate, that will lead to employment.
- (b) A person who is so seriously dependent upon alcohol or drugs that work or training is precluded.
- (c) A person who is having an emotional or mental problem that precludes participation.
- (d) A person who is involved in legal difficulties, such as court- mandated appearances, which preclude participation.

- (e) A person who does not have the legal right to work in the United States.
- (f) A person who has a severe family crisis.
- (g) A person who is in good standing in a union which controls referrals and hiring in the occupation.
- (h) A person who is temporarily laid off from a job with a definite call-back date.
- (i) A person who is employed for 15 or more hours per week, and who meets certain other specific criteria.
- (j) A person or a family member who has a medically verified temporary illness.
- (k) A woman who is in the first trimester of pregnancy.
- (l) A 16- or 17-year-old custodial parent who is not currently in school and who does not possess a high school diploma, and supportive services are not available, or intensive care management services are needed and unavailable, or the individual has a special school need that cannot be met.
- (m) A parent or adult relative who lacks necessary child care.
- (n) An individual who lacks transportation.
- (o) An individual who at the time of initial appraisal is attending a nonapprovable education or training program may be deferred to complete the program semester, quarter or increment but not more than six months.

The county may request verification of the reason for the deferral. The county shall project the length of time of the deferral, and review the deferral situation periodically, but no less often than annually. (§42-761.4, modified and revised to §42-761.3 effective January 26, 1996; §42-761, repealed in its entirety, effective July 1, 1998)

112-2

Prior to July 1, 1998, state regulations provided that: An individual (except for certain teen parents in specified situations) is exempt from registration when he/she meets any of the criteria specified in Sections 42-789 through 42-799. (§42-788)

- (A) A child under age 16. (§42-789)
- (B) An individual 16, 17, or 18 years of age who is a full-time student in a school in grade 12 or below, or vocational or technical school. (§42-790)
- (C) Ill or injured, when the county determines that the illness or injury is serious enough to temporarily prevent entry into employment or training or to limit employment to part time work. (§42-791)
- (D) Age 60 or older. (§42-792)

(E) Incapacitated, when it is verified that: (a) the individual has a physical or mental impairment which prevents the individual from engaging in employment or training, or limits employment to part time work, and the impairment is expected to last 30 days; or (b) the individual, under age 20, does not possess a high school diploma or equivalent, and her physician prescribes a specified period of postpartum recovery. (§42-793)

(F) Residing in a location which is so remote from a GAIN Program activity that effective participation in the program is precluded. (§42-794)

(G) An individual whose presence in the home is required on a substantially continuous basis because of the physical or mental impairment of another member of the household and no other household member can appropriately provide the care. (§42-795)

(H) The parent or other relative of a child under three years who is personally providing care for the child. (§42-796) (I) Pregnant and in at least the fourth month of pregnancy. (§42-797)

(J) Working 30 hours per week, or is working and expected to be working at the higher of the state or federal minimum wage for 30 hours or more per week in unsubsidized employment which is expected to last at least 30 days. (§42-798)

(K) A full-time VISTA volunteer. (§42-799)

(§42-788 was revised and renumbered to §42-712. §§42-789 through 42-793 and §§42-795 through 42-797 were revised and renumbered to §42-712. In addition, the other manual sections cited above were repealed effective July 1, 1998)

112-2A

Prior to July 1, 1998, the following regulation was in effect: An individual is exempt from GAIN participation when he/she is residing in a location which is so remote from a GAIN program activity that effective participation in GAIN is precluded. An individual shall be considered remote if a round trip of more than two hours (using accepted community standards) by reasonably available public or private transportation, exclusive of time for transporting children to and from a child care facility, would be required for a normal working or training day, unless normal round trip commuting time in the area is more than two hours. (§42-794.1; §42-794, repealed in its entirety, effective July 1, 1998)

The *Muradyan v. Anderson* Consent decree requires the CDSS and county to "apply the remoteness exemption to all GAIN activities, including orientation and appraisal." (*Muradyan v. Anderson*, Stipulation of Settlement and Consent Decree, Sacramento County Superior Court, Case No. 372922, June 11, 1996; All-County Letter No. 96-39, August 6, 1996)

112-3

Prior to July 1, 1998, the following regulations were in effect: An individual who has requested an exemption from GAIN participation in writing shall be required to sign a GAIN contract only when the county has completed the exemption determination process and determined that the individual is not exempt. (§§42-771.7 and 42-788.22)

The individual shall be notified in writing of this determination. (§42-760.42; §42-760, repealed in its entirety, effective July 1, 1998)

112-4

Prior to July 1, 1998, state regulations provided that: In the GAIN program, an individual is exempt from registration based on incapacity when it is verified that: (a) The individual has a physical or mental impairment which prevents that person from engaging in employment or training and the impairment is expected to have a duration of at least 30 calendar days; or (b) A woman is under age 20 but not a teen parent, subject to Cal-Learn, does not possess a high school diploma or its equivalent, and her physician prescribes a specific period of postpartum recovery. (§42-793.1, modified and renumbered to §42-712.44, effective July 1, 1998)

112-4A

Prior to July 1, 1998, state regulations provided that: The exemption from GAIN based on incapacity is supported by a written or verbal statement from a physician or a licensed or certified psychologist or by a member of that individual's staff who has access to the patient's medical records. The statement should include the following information:

(a) The individual has a physical or mental defect which by itself or in conjunction with age, prevents the person from engaging in full-time employment, or in training.

(b) The expected duration of the condition or impairment.

(c) If the incapacity is due to postpartum recovery, the date of birth, the identification of any postpartum complications, and the anticipated recovery date.

(d) The doctor's name, address, and telephone number.

(§42-793.21, repealed effective July 1, 1998)

112-4B

Prior to July 1, 1998, state regulations provided that: If incapacity verification is obtained verbally, documentation must include the date verification was obtained, the name of the person who supplied the verification, and the name of the county worker who obtained the verification. (§42-793.211, repealed effective July 1, 1998)

112-4C

Prior to July 1, 1998, state regulations provided that: The form, CA 61, Medical Report, is required only when verification of incapacity cannot be obtained by other means, i.e., the person is not currently receiving medical care and no currently valid medical evidence is available, and it is necessary to obtain a medical examination to establish evidence of the person's incapacity. (§42-793.213, repealed effective July 1, 1998)

112-4D

Prior to July 1, 1998, state regulations provided that: An individual is exempt from GAIN: Based on the receipt of OASDI benefits because of the individual's own disability, when verified by a copy of the award letter, or written verification from Social Security; or

Based on the receipt of SDI or Workers' Compensation for the period covered by the benefit when verified by a copy of the award letter or other written verification. (§§42-793.22 and .23, repealed effective July 1, 1998)

112-4E

Prior to July 1, 1998, state regulations provided that: If the incapacitated individual's condition is expected to last more than one year, the condition is to be reviewed at the annual reinvestigation. (§42-793.31, repealed effective July 1, 1998) If the condition is not expected to last one year, and specifies an expected duration of the condition, the exemption is to be reviewed at the time the condition is expected to end, or sooner if there is reason to believe that there has been a change in the condition. (§42-793.3, partially repealed, and modified to §42-793.44, effective July 1, 1998)

112-5

Prior to July 1, 1998, state regulations provided that: In the GAIN program, an individual is exempt from registration when the individual's presence in the home is required on a substantially continuous basis because another household member is physically or mentally impaired and no other household member is appropriate, available, and capable of providing care for the impaired person. (§42-795.1, repealed in part, modified in part, and renumbered to §42-712.461, effective July 1, 1998)

112-5A

Prior to July 1, 1998, state regulations provided that: The GAIN exemption based on care of another individual in the household is documented by a written or verbal statement from a physician or a licensed or certified psychologist or a member of that individual's staff verifying there is a person in the household who is physically or mentally impaired and someone is needed in the home to provide care for the impaired person. (§42-795.21) The county must determine whether the individual requesting GAIN exemption is the most feasible person to provide the care. (§42-795.22; §§42-795.21 and .22, repealed effective July 1, 1998)

112-5B

Prior to July 1, 1998, state regulations provided that: If obtained verbally, documentation of the GAIN exemption based on care of another person in the household must include the date the statement was obtained, the name of the person who supplied the statement, and the name of the county worker who obtained the statement. (§42-795.211, repealed effective July 1, 1998)

112-5C

Prior to July 1, 1998, state regulations provided that: The exemption set forth in §42-795 shall be reviewed at:

1. The annual reinvestigation.
2. The time the individual's condition is expected to end if the expected duration of the condition is less than a year.
3. When the CWD believes there has been a change in the recipient's circumstances that would affect the exemption.

(§42-795.3, repealed effective July 1, 1998)

113-1

Prior to July 1, 1998, the following regulations were in effect: One parent in a family receiving AFDC-U is required to participate in GAIN as specified in §42-775. The other parent, unless exempt or deferred, must participate with GAIN as specified in §§42-772 and 42-774. (§42-775.1)

Upon completion of appraisal or assessment, that parent required to participate in accord with §42-775 shall participate in one of the following employment activities for an average of at least 16 hours per week:

1. Preemployment preparation, as set forth in §42-730.32.
2. OJT as described in §42-730.33.
3. Any activity funded by grant diversion, as set forth in §§42-730.33, .34, .35, and .4, revised to §42-730.34, .35, .36, and .4 effective January 26, 1996.
4. Unsubsidized employment of 16 hours per week, or, if fewer than 16 hours per week, may be combined with employment activities set forth above.
5. A UWEX component as described in this section, modified to an AWEX component as described in §42-730.33. (§42-775.3, as modified January 26, 1996)

(§§42-730 and 42-775 were repealed in their entirety, effective July 1, 1998)

114-1

Prior to July 1, 1998, the following regulations were in effect: Before sanctions (§42-786) are applied to the GAIN participant, the county shall determine if there is good cause for the individual's failure or refusal: to enter into a participant contract; to participate or (effective January 26, 1996) provide required proof of satisfactory progress in any assigned activity; to accept a job offer or job referral; to terminate employment or reduce earnings.

Failure or refusal to comply with program requirements is limited to those requirements listed above. (§42-781.1)

Section 42-781 does not apply to teen parents in the CAL-Learn Program. (§42-781.12)

The good cause criteria the county is to use are set forth in §42-782.1.

(§§42-781 and 42-782, were repealed in their entirety, effective July 1, 1998)

114-2

Prior to July 1, 1998, state regulations provided that: Financial sanctions shall be applied when the mandatory GAIN participant has failed to comply with program requirements without good cause and conciliation efforts have failed. (§42-786.1, repealed effective July 1, 1998)

114-2A

Prior to July 1, 1998, state regulations provided that: If the individual who failed or refused to participate in GAIN is a parent or caretaker relative in a family whose basis of deprivation is incapacity or absence, his/her aid shall be discontinued and aid shall be continued to the remainder of the family. (§42-786.311, repealed effective July 1, 1998)

114-2B

Prior to July 1, 1998, state regulations provided that: If the individual who failed or refused to participate in GAIN is an eligible child, aid shall be discontinued only for the child and aid shall be continued for the remainder of the family even if the child is the only eligible child in the AU. (§§42-786.312 and .313, repealed effective July 1, 1998)

114-2C

Prior to July 1, 1998, state regulations provided that: If the individual who failed or refused to participate is a parent whose sole basis for deprivation is the unemployment of the principal earner, his/her aid shall be discontinued. (§42-786.314) In addition, if the sanctioned parent's spouse or second parent is not participating in the program, aid to the spouse or second parent shall also be discontinued, except (effective January 1, 1994) as specified in Subsection .314(b).

Subsection .314(a) provides that full-time employment of at least 30 hours per week at the minimum wage or more shall satisfy the participation requirement.

Subsection .314(b) provides that the exemption criteria specified in §§42-795 through 42-796 shall not apply to the spouse or second parent. If the spouse or second parent meets any other exemption, deferral or good cause criteria as set forth in §§42-788 through 42-794, 42-797 through 42-799, 42-761.4 or 42-782, he/she shall not be required to participate in order for his/her aid to continue.

Subsection .314(e) provides that if the spouse or second parent chooses to participate after the financial sanction has been imposed, his/her aid shall be restored.

(§42-786.3 was repealed, effective July 1, 1998)

114-2D

Prior to July 1, 1998, state regulations provided that: If the spouse or second parent in the AFDC-U family chooses to participate and subsequently fails or refuses to comply with the program requirements, prior to the reinstatement of the first parent, the spouse or second parent shall be subject to the provisions of §42-781 and this section. (§42-786.314(g); §§42-781 and 42-786.314, repealed effective July 1, 1998)

114-3

Prior to July 1, 1998, state regulations provided that:

Good cause for a refusal or failure to comply with program requirements specified in §42-781.1 shall include any of the following:

(a) An assignment, job referral, or job does not meet appropriate work and training criteria, as specified in §42-783.

- (b) The individual is temporarily ill or incapacitated.
- (c) The individual is required to appear in court or is temporarily incarcerated.
- (d) The individual is experiencing a family crisis or change of individual or family circumstances, such as any of the following:
 - (1) Death of a spouse, parent, or child;
 - (2) Illness of a spouse, parent, or child which requires the individual's immediate attention.
- (e) Inclement weather or other act of nature precludes travel to the activity.
- (f) A breakdown in transportation arrangements occurs with no ready access to alternate transportation.
- (g) The individual needs a social service not specifically mentioned in the participant contract but which is required for participation.
- (h) The individual refuses to accept major medical services even if the refusal precludes participation in the program.
- (i) Licensed or exempt child care is not reasonably available during the individual's hours of training or employment, including commuting time; or child care is needed for a child who meets the criteria of §42-750.22, but does not meet the criteria of §42-750.21, and therefore is not eligible for GAIN paid child care.
 - (1) "Reasonably available" child care includes having at least two choices of child care arrangements which do not require either of the following:
 - (A) Adding more than one-half hour one-way to the participant's commuting time; or
 - (B) The child to transfer to a different school.
 - (2) The choices of child care shall meet the requirements specified in §42-750.21.
- (j) A breakdown or interruption of child care arrangements occurs.
- (k) Suitable special needs child care is not reasonably available for children with disabilities, chronic illnesses, or other special needs.
- (l) An individual is engaged in employment or training that is consistent with the employability objectives of the program, and prior notification and approval from the County Welfare Department (CWD) has been received.
- (m) The assignment or job would require an individual who meets the criteria specified in §42-772.6 to participate or work more than 20 hours per week.

(n) Any of the deferral criteria specified in §§42-761.3 and .4, or the exemption criteria specified in §§42-789 through 42-799.

(o) At the discretion of the CWD, any substantial and compelling reason other than those specified in this section.

(§42-782.1; §§42-781 and 42-782 were repealed in their entirety, effective July 1, 1998)

114-4

Prior to July 1, 1998, state regulations provided that:

When determining good cause, an assignment, job referral, job offer, or job is not considered appropriate work or training, as specified in §42-782, if it meets any of the following conditions:

(a) Discriminates in terms of age, sex, race, color, religion, national or ethnic origin, physical or mental handicap, political affiliation, or marital status.

(b) Requires travel between the place of employment or training and one's home that exceeds a total of two hours round trip, or two miles round trip when walking is the only available means of transportation, or requires the individual to remain away from home overnight without his/her consent.

(1) The limit on travel time and mileage excludes transportation time/mileage to take family members to and from school or care providers.

(c) Involves conditions and responsibilities that impair the participant's physical or mental health, or tasks that the participant is not capable of performing on a regular basis.

(d) Involves conditions that are in violation of applicable health and safety standards.

(e) Is not within the scope of the employment plan contained in the contract as specified in §42-771.

(f) The employment or training program position was created in violation of the requirements in §42-730.13, .329, or .418.

(g) The employment, offer of employment, or work activity does not provide for worker's compensation.

(h) Accepting the employment, offer of employment, or work activity would cause the individual to violate the terms of his/her union membership.

(i) Accepting the employment, offer of employment, or work activity would interrupt an approved education or job training program, or would prevent the individual from returning to his/her regular job within a reasonable period of time, with the following exceptions:

(1) The training program that would be interrupted is a PREP or AWEX assignment as specified in §42-730.32 or .33.

(2) The job offer provides either of the following:

(A) Employment and sufficient income to lead to self-support, and the job offer is within the scope of the employment plan.

(B) Temporary employment while the individual is waiting for reemployment in his/her regular job.

(j) The employment or offer of employment exceeds the daily or weekly hours of work customary to the occupation.

(k) The participant is not receiving the supportive services specified in the participant contract entered into under §§42-772 or 42-774.

(l) Ancillary expenses exceed the limit allowed in §42-750.4.

(m) The offer of employment is at a wage level that results in a net loss of income, as specified in §42-784. (This subsection is not applicable to teen parents in Cal-Learn.)

(§42-783.1; §§42-782 and 42-783 were completely repealed, effective July 1, 1998)

114-5

State law governing the UI program provides as follows:

(a) Whenever a registrant fails or refuses to appear for appraisal, or a certified registrant fails or refuses to accept employment or to otherwise participate in a work incentive or employment preparation program, the department shall determine whether the individual had good cause for the failure or refusal.

(b) The Department shall exhaust efforts toward conciliatory resolution of disputes before it issues a notice of intended deregistration. The Department shall inform the individual what may constitute good cause in writing on the same notice which informed him or her that an issue exists concerning his or her failure or refusal to cooperate or participate. The notice of unresolved issues, which are issues prior to the potential issuance of a notice of intended deregistration, shall clearly specify the action or actions that resulted in the unresolved issue, the proposed steps that the registrant may take towards conciliatory resolution, and the right to offer a counter proposal towards conciliatory resolution, including the names and addresses of the local legal services office and welfare rights office, if any, who can assist him or her with conciliation. The purpose of this effort is to encourage the participant to continue in the Work Incentive Program or Employment Preparation Program. The conciliatory effort shall begin no later than 10 days following the date of failure or refusal to participate as determined in subdivision (a). The conciliation effort may continue for a period not to exceed 30 days. However, the registrant, upon written request, may terminate this period sooner when he or she believes that conciliation will not resolve the dispute. If the registrant refuses to meet the conditions of the conciliation plan, the Department may terminate the plan earlier. Upon meeting the agreed upon conciliation plan, the Department shall inform the registrant of his or her successful completion of the plan in writing.

(Unemployment Insurance Code §5302)

114-6

Prior to July 1, 1998, state regulations provided that: In GAIN, the first financial sanction shall continue until the individual signs a participant contract or participates in the required activity in which he/she previously refused to participate. The second sanction is for a minimum of three months. The third and subsequent sanctions shall continue for a minimum of six months. The second and third sanctions may also be ended if the individual signs a participant contract, or participates in the required activity in which he/she refused to participate, once the three month or six month period has run. (§42-786.2, repealed effective July 1, 1998)

114-7

Prior to July 1, 1998, state regulations provided that: If a GAIN sanction period has continued for three months, the county shall notify the individual in writing of his/her option to end the sanction by beginning, or resuming, participation. This notification must be made at least ten working days prior to the end of the third month of the sanction. (§42-786.26, repealed effective July 1, 1998)

114-9

Prior to July 1, 1998, state regulations provided that: In determining whether the financial sanction to be applied in accord with §42-786 is a first, second, or subsequent sanction, a sanction has occurred only when there have been instances of noncompliance without good cause which are not successfully conciliated and which result in the issuance of a sanction Notice of Action. (45 Code of Federal Regulations §250.34(a)(1); All-County Letter (ACL) No. 90-35, April 12, 1990) If a sanction is subsequently rescinded, the instance of noncompliance without good cause is disregarded. (§42-786.211; §42-786.2 repealed, effective July 1, 1998)

114-10

Prior to July 1, 1998, state regulations provided that: When the county determines that an individual has failed, without good cause, to comply with a program requirement, the county shall conduct conciliation. (§42-781.4) The notice that begins conciliation shall be issued at least six working days prior to the scheduled appointment. (§42-781.411; §42-781 was completely repealed, effective July 1, 1998)

115-2

Prior to July 1, 1998, state regulations provided that: Counties have authority to disapprove an SIP solely on the basis that it will take longer than two years to complete. There may be one extension of six months at the end of the two-year period if the individual's skills require more time than was originally estimated, or the school did not offer required classes or there was a personal or family crisis; and there is a reasonable expectation the program can be completed within the additional six months. (§42-772.41, repealed effective July 1, 1998)

115-2A

Prior to July 1, 1998, state regulations provided that: Individuals who possess (a) a baccalaureate degree or (b) who have the education and job skills necessary to obtain unsubsidized employment in an occupation that will provide the individual with an

income equal to two times the federal poverty level for the appropriate family size, are deemed to be employable and are not eligible for SIP approval. (§42-772.431)

Individuals shall not be deemed employable under subsection (b) if they are able to demonstrate that due to compelling personal circumstances employment in the previous occupation is not realistic. (§42-772.432; §42-772 was completely repealed, effective July 1, 1998)

115-2B

Prior to July 1, 1998, state regulations provided that: Ancillary expenses shall be paid when necessary to participate in approved GAIN activities or to accept employment opportunities. These shall include books, tools, clothing, fees and other necessary costs of a work or training assignment. Participants who are in approved self-initiated programs shall not be reimbursed for ancillary expenses. (§42-750.5, repealed effective July 1, 1998)

115-3

Prior to July 1, 1998, state regulations provided that: If the CWD determines that the participant had good cause for failing to meet the participation, attendance or progress standards in an SIP, and the school allows the participant to continue in the program, the county shall allow the participant to continue in such program. (§42-772.48, repealed effective July 1, 1998)

115-4

Prior to October 1, 1990, state law provided as follows: Payments for supportive services such as child care shall be advanced to the participant, wherever necessary, and when desired by the participant, so that the participant need not use his or her funds to pay for these services. If the participant is working in unsubsidized employment after having participated in this program, child care shall be available for a transition period of not less than three months. (W&IC §11320.3(f), repealed effective September 30, 1990)

115-5

Prior to July 1, 1998, state regulations provided that: Supportive services shall be provided to GAIN registrants to enable them to participate in GAIN activities or to accept employment opportunities. At a minimum, these services shall include child care referrals and payments, transportation costs, ancillary expenses, and personal counseling (except for certain individuals in SIPs). (§42-750.1, repealed effective July 1, 1998)

115-6

Prior to July 1, 1998, state regulations provided that: Child care services shall be available to every GAIN participant with a child who meets the following conditions:

- (1) The child: Is in the AU; or receives federal foster care; or receives SSI/SSP; and
- (2) The child: Is under 13; or meets the age requirements for AFDC and receives SSI/SSP; or is under court supervision as specified in W&IC §§601 or 602; or is physically or mentally incapable of providing self-care as evidenced by a written statement from a physician or psychologist.

(§42-750.2, repealed effective July 1, 1998)

115-7

Prior to July 1, 1998, state regulations provided that: Reasonable transportation costs shall be paid for every participant to and from the GAIN assignment, including transportation of the individual or child(ren) to and from the child care provider. (§42-750.4)

Generally, the authorized payments shall not exceed the least costly form of public transportation which does not preclude GAIN participation, as specified in §42-783.1(b). If public transportation is available, GAIN participants who use their own vehicles are limited to reimbursement at the public transportation rate. If public transportation is unavailable, GAIN participants who use their own vehicles shall be reimbursed at the rate received by County Welfare Department employees.

Parking shall be reimbursed at actual cost, subject to submission of receipts (unless parking meters are used). (§42-750.41; §§42-750 and 42-783 were completely repealed effective July 1, 1998]

115-8

Prior to July 1, 1998, state regulations provided that: When any GAIN participant is enrolled and wishes to continue in a self-initiated vocational training program or an educational program which is expected to lead to unsubsidized employment, the basic contract shall provide for continued participation in the program until completion. Participation as a GAIN participant shall be limited to two calendar years under the conditions and limitations in this section. The program shall be consistent with the participant's preliminary employment goal. (§42-772.4, repealed effective July 1, 1998)

116-1

Counties are to maintain documentation in the case file of all determinations regarding the consideration of educational grants, scholarships and awards for payment of supportive services. Counties are also to document each participant's voluntary agreement to make financial aid available to pay for child care, transportation and ancillary costs which are eligible for GAIN funding. The counties do not have the authority to mandate how student financial aid is to be used by the participant. (§42-750.93 as clarified by All-County Letters (ACLs) No. 90-70, July 31, 1990, 91-05, January 25, 1991, and 93-63, September 1, 1993; *Yslas v. Anderson*, implemented by §50-024)

116-2

The CDSS shall conduct employee displacement grievance process hearings to resolve the complaints of regular employees, or their representatives, who believe assignment of a GAIN participant to a preemployment preparation (PREP), on-the-job-training (OJT) or grant diversion-funded component violates any of the displacement provisions of §§42-730.13, 42-730.329, or 42-730.418. (§§42-731, 42-731.22)

If the employer and labor union representing the dissatisfied employee have a grievance procedure as part of their collective bargaining agreement, there is no right to a state hearing. (§42-731.51, revised and renumbered 42-720, 7/1/98)

117-1

The major program requirements of the Cal-Learn program per §42-762.2 are:

- (1) Each teen parent will be required to attend full-time school programs that will lead to a high school diploma or equivalent until he/she earns either or turns 19 years old.
- (2) An AU with a teen parent(s) will receive up to four \$100 bonuses in a 12-month period for each teen parent that makes satisfactory progress in his/her school program.
- (3) Each teen parent receiving a high school diploma or its equivalent within the month he/she turns age 19, or turns 20 years old for a voluntary 19-year-old participant, will receive a \$500 bonus.
- (4) An AU with a teen parent(s) will receive a \$100 sanction up to four times in a 12-month period for each teen parent who fails, without good cause, to make adequate progress in his/her school program.
- (5) Child care, transportation, and ancillary expense payments will be provided to enable a teen parent to continue in or enroll in school.
- (6) Intensive case management services modeled on the Adolescent Family Life Program will be provided.

117-2

Cal-Learn bonuses are supplements to the aid payment that was made to the AU in the month in which the bonus was earned by the eligible teen parent. A bonus is considered to be earned as of the last day of the report card period. (§42-769.1)

117-3

A Cal-Learn bonus or sanction shall not be included in the calculation of an overpayment adjustment, a homeless assistance payment, or a reduced income supplement payment. (§42-769.4)

117-4

Individuals who have entered the Cal-Learn Program who are pregnant with no other children shall be federally eligible for AFDC during their first and second trimesters of pregnancy. (§42-762.7)

Pregnancy is verified under §80-301m.(2). (§42-763.114)

117-5

In the Cal-Learn Program "satisfactory progress" is defined as making at least a "C" (2.0) grade point average (GPA) on a report card or meeting the school's regular assessment of periodic progress when the school uses an alternative grading method. (§42-762.3s.(2))

"Adequate progress" is defined as making a "D" (no less than 1.0 and less than 2.0) GPA on a report card or meeting the school's regular assessment of periodic progress when the school uses an alternative grading method. (§42-762.3a.(1))

117-6

In the Cal-Learn Program, the only good cause criteria for failure to comply with program requirements are those specified in §§42-782.1(b), (c), (d), (e), (f) (h), (i), (j), (k), and (o). (§42-782.4)

117-7

The Cal-Learn program is a required GAIN component for pregnant and parenting teens under the age of 19 who have not obtained a high school diploma or its equivalent. It differs from GAIN in that:

(1) It is an entitlement. All nonexempt eligible teens must participate. Exempt teens cannot volunteer to participate in Cal-Learn or GAIN.

(2) GAIN sanctions do not apply. There are financial bonuses.

(3) GAIN conciliation does not apply. There is a "10-day reasonable effort period" within which the case manager must take certain minimum actions before initiating a sanction.

(4) There is no contract between the teen parent and the County Welfare Department. The case manager develops a case plan with assistance from the teen parent.

(All-County Letter No. 95-40, August 4, 1995)

118-1

The Federal District Court for the Northern District of California has required the state to provide child care to AFDC recipients in approved education and training activities who are not enrolled in the GAIN program. Child care assistance is to be provided on the same basis available to GAIN participants in self-initiated education or training activities. (All-County Letter No. 92-61, June 22, 1992)

Effective January 1, 1998, this program was repealed and replaced by a three-stage child care system. (All-County Letter No. 97-73, October 29, 1997, implementing Assembly Bill No. 1542)

118-2

The Federal District Court ordered the state and counties to provide adequate and timely notice to those AFDC recipients who are not enrolled in GAIN, who meet existing GAIN criteria for the approval of education and training activities, and who need child care assistance, of any county decision affecting their child care assistance.

Child care shall be provided pursuant to existing GAIN criteria for approval of self-initiated programs and existing GAIN definitions for satisfactory progress and attendance requirements as set forth in W&IC §11320 et seq., to the maximum payment rate allowed by federal law. (*Miller v. Healy*, U.S.D.C., N.D. Cal., Interim Order to Enforce Permanent Injunction, No. C-91-0676 SBA/BYP, May 26, 1992)

Effective January 1, 1998, this program was repealed and replaced by a three-stage child care system. (All-County Letter No. 97-73, October 29, 1997, implementing Assembly Bill No. 1542)

118-3

The NET program is voluntary and there are no sanction nor conciliation processes. "Good cause" is relevant to the NET program only when the county proposes to terminate NET benefits for failure to participate.

Recipients establish good cause by showing they were temporarily ill or incapacitated; that they are required to appear in court, or are temporarily incarcerated; that there is a family crisis; that inclement weather precludes travel to the activity; that there is a breakdown in transportation with no readily accessible alternative; that there is a breakdown or interruption of child care services; or any substantial and compelling reasons, as determined by the county.

(All-County Letter No. 93-20, March 10, 1993, Answers 3, 24, 25)

Effective January 1, 1998, this program was repealed and replaced by a three-stage child care system. (All-County Letter No. 97-73, October 29, 1997, implementing Assembly Bill No. 1542)

118-4

To be eligible for NET program benefits, the AFDC recipient must meet all of the following requirements:

(1) Have never applied for and received NET services for the full program eligibility period.

(2) Not be eligible for and able to receive GAIN Program services in the county. If an applicant appears to be able to enroll in GAIN, but is then unable to do so, the NET application will be approved based on the initial date of application for NET benefits.

(3) Not be receiving other child care subsidies that fully meet his/her child care needs required for completion of the approved education or training program.

(4) Meet the GAIN criteria for approval of self-initiated education or training programs. (All-County Letter No. 92-61, June 22, 1992) Effective January 1, 1998, this program was repealed and replaced by a three-stage child care system.

(All-County Letter No. 97-73, October 29, 1997, implementing Assembly Bill No. 1542)

Effective January 1, 1998, this program was repealed and replaced by a three-stage child care system, (All-County Letter No. 97-73, October 29, 1997, implementing Assembly Bill No. 1542)